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December 6, 2023

VIA ECF FILING

Hon. Karen Frink Wolf
U.S. District Court, District of Maine
Margaret Chase Smith Federal Building & Courthouse
202 Harlow Street
Bangor, ME 04401

Re: *Jane Doe v. Missionary Oblates of Mary Immaculate Eastern Province, et al*
Civil Case No. 1:22-cv-00381 (LEW)

Your Honor:

We are counsel to the defendants, Missionary Oblates of Mary Immaculate Eastern Province (“Eastern Province”), U.S. Province of the Missionary Oblates of Mary Immaculate, Inc. (“U.S. Province”), and Missionary Oblates of Mary Immaculate, Inc. (“OMI, Inc.”) (collectively, “Defendants”) in the above-referenced matter.

This letter is submitted, jointly, by the undersigned attorneys pursuant to the Court’s docket order of December 5, 2023, to update the Court on the status of discovery, including any remaining discovery disputes, in advance of the status conference set for December 7, 2023.

Status of Discovery

1. Mental Examination

Plaintiff appeared for the IME as scheduled. Defendants are in the process of preparing expert disclosures.

2. Materials Exchanged with the Fall River Diocese

We previously reported that the parties were unable to resolve a disagreement as to whether materials exchanged with the Fall River Diocese can be withheld on the basis of the attorney-client privilege. As of the date of this letter, the documents have not been produced, but the parties have reached an agreement that these materials are not privileged, not subject to confidentiality, and Plaintiff has agreed to produce the materials requested. Following Plaintiff’s production,

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Defendants intend to serve a subpoena duces tecum on the Fall River Diocese to obtain any remaining materials which may not be within Plaintiff's possession, custody, or control.

To the extent the aforementioned materials are not produced by the status conference, Defendants would request an order setting a date certain for the production of these materials, as well time to serve the Rule 45 subpoena following said production.

3. Communications with Plaintiff (Emails, Etc.)

The parties have also reached an agreement relative to an attorney-client privilege objection raised by Plaintiff in response to Defendants' Rule 34 request for emails (including attachments) and text messages exchanged by and with Plaintiff during the course of counsel's investigation of another client's claims of sexual abuse. Defendants' position relative to these communications is that they were either not privileged to begin with or, if they were, Plaintiff waived privilege by testifying about them at her deposition. Though no documents have been produced as of this submission, Plaintiff's counsel has agreed to produce a redacted retainer agreement, as well as **unredacted** emails and attachments. Defendants have reserved the right to seek a deposition of the attorney communicating with Plaintiff during the course of this investigation, as a percipient fact witness.

During her IME, it came to light that Plaintiff is in possession of voicemails with her counsel's other client (Jane Doe 1) and/or her counsel, also relative to the aforementioned investigation. Defendants believe these materials are responsive to prior Rule 34 demands, and reserve the right to seek images of Plaintiff's phone and computer. This issue was only discovered by Defendants within the last 48-hours, and was brought to Plaintiff's counsel's attention today. As such, no specific agreement has been reached regarding these items as of this submission.

To the extent the aforementioned materials are not produced by the status conference, Defendants would request an order setting a date certain for the production of these materials.

4. Party Depositions

The parties agree that Defendants are entitled to a further deposition of Plaintiff relative to the allegations against the U.S. Province and OMI, Inc., as well as the materials discovered after her deposition. Plaintiff has requested that the further deposition be conducted via Zoom. Now that the U.S. Province and OMI, Inc. have interposed answers to the Amended Complaint, Plaintiff intends to notice additional Rule 30(b)(6) topics as to those defendants. Upon service of such demands, Defendants will identify the appropriate witness or witnesses.

5. Depositions of Expert Witnesses

Counsel have discussed possible dates to conduct the depositions of Dr. Eagle and Defendants' experts (two). The parties agree, however, that the completion of the outstanding

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discovery addressed above, as well as production of Defendants' expert disclosures, is necessary before expert depositions can go forward.

6. Conclusion

In light of the foregoing, the parties believe that completing all fact and expert discovery by the December 19, 2023, deadline will not be possible, and therefore respectfully request the opportunity to discuss with the Court an extension of that deadline.

Respectfully submitted,

/s/ Sara E. Thompson

Sara E. Thompson (*pro hac vice*)

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 6, 2023, the foregoing letter was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties or their respective representatives by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing. Parties may access this filing through the Court's electronic filing system.

/s/ Sara E. Thompson

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